

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2818-11
Bill No.: SS#2 for SCS for HB 1348 with SA 1,aa, SA 2 and SA 3
Subject: Agriculture and Animals; Agricultural Dept.; Boards, Commissions, Committees, Councils; Cooperatives; Motor Fuels; Elections
Type: Original
Date: May 14, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(less than \$100,000)	\$650,000 to \$750,000	\$650,000 to \$750,000
Missouri Qualified Biodiesel Producer Incentive *	\$0	\$0	\$0
Missouri Agricultural Products Marketing Development Fund	\$0	\$0	\$0
Organic Production and Certification Fee	\$0	Unknown	Unknown
Marketing Development Fund	\$369,367	\$492,489	\$492,489
Missouri Wine Marketing and Research Development	\$5,750	\$6,900	\$6,900
Pesticide Project Fund	\$451,346	\$449,567	\$447,058
Total Estimated Net Effect on <u>All</u> State Funds**	\$726,463 to \$826,463	\$1,598,956 to Unknown	\$1,596,447 to Unknown

*offsetting transfers and expenditures

****DOES NOT INCLUDE FUNDING FROM OTHER SOURCES AT A TOTAL OF \$4,500,000 TO BE SUBJECT TO APPROPRIATIONS.**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 15 pages.

FISCAL ANALYSIS

ASSUMPTION

Boll Weevil Suppression

Officials from the **Department of Agriculture** (AGR) assume this proposal will not have a fiscal impact on the department.

Biodiesel Program

Officials from the **Department of Agriculture** assume the Department would administer the program. This would include writing regulations, licensing producers, and making payments to qualified biodiesel producers. It is assumed that there will be no biodiesel production in FY 2003 since it would likely take at least 18 months for the production of biodiesel eligible for grants under this bill. It is also assumed that only one plant will produce biodiesel in FY 2004 and 2005.

The Department of Agriculture provided an estimate of costs based on one qualified plant producing 15 million gallons of biodiesel fuel in 2004 and 2005, resulting in payments of \$4.5 million in 2004 and in 2005.

ASSUMPTION (continued)

Oversight assumes any administrative costs for the Department of Agriculture would be minimal and could be provided from existing resources. Oversight also assumes the transfers to the Missouri Qualified Biodiesel Producer Incentive Fund would be paid from the state General Revenue Fund.

In response to a similar proposal, officials of the **Office of the Secretary of State (SOS)** assume this bill would create the Missouri Qualified Biodiesel Producer Incentive Fund which provides grants for producers of biodiesel products. This could create new rules or amendments by the Department of Agriculture and the Department of Revenue which could result in our division publishing rules in the Missouri Register and the Code of State Regulations. This action could require as many as approximately 12 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$23. The estimated cost of a page in the Code of State Regulations is \$27. The actual costs could be more or less than the numbers give. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded and withdrawn. $[(12 \times \$27) + (18 \times \$23) = \$414]$

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Ethanol Labeling

Officials from the **Department of Agriculture (AGR)** assume this proposal would not require the AGR to enforce notification at motor fuel pumps where ethanol is used as an oxygenate. AGR will not have to provide, at no cost to the sellers, labels that identify ethanol. AGR officials assume the department will save the annual costs of issuing the labels to fuel stations with ethanol pumps. AGR estimates there are 8,000 ethanol pumps that currently require annual labeling and the cost of one label is \$.25, resulting in an annual savings of \$2000 (8,000 pumps x \$.25 per label = \$2000).

Oversight assumes this impact is minimal.

ASSUMPTION (continued)

Forestry

VL:LR:OD (12/00)

In a similar proposal officials of the **Department of Agriculture** and **Department of Natural Resources** assumed this proposal would have no fiscal impact on their respective agencies.

The **State Courts Administrator** assumes this proposal will have no fiscal impact on the Courts.

In a similar proposal officials of the **Department of Conservation** assume the proposal does not mandate that the Conservation Commission administer cost-share programs beyond those already offered. Officials stated that landowner cost-share incentive programs to promote sustainable forestry on private lands are already in place.

New Generation Processing Entities

Officials from the Department of Agriculture assume a combined annual total of \$6 million is available as either New Generation Cooperative tax credits or Agricultural Product Utilization tax credits. With more types of businesses (L.L.C. etc.) qualifying for the New Generation Cooperative tax credits, demand for these credits is likely to increase. This will cause an offsetting reduction in the availability of Ag Product Tax Credits which will mean fewer grants to value-added enterprises.

Oversight assumes this provision has no net impact on the state since the proposal does not increase or reduce the amount of tax credits available.

Officials from the **Department of Insurance (INS)** assume this proposal would provide the designation of additional entities eligible for tax credits and would increase the number of tax credits taken against 148 RSMo. premium taxes collected. Tax credits are capped at \$15,000 for each fuel processing organization, but there is not a limit on the number of projects. The department is unable to project how much in additional tax credits may be generated and what effect it will have on premium tax collections.

Officials with the **Missouri Department of Transportation (DHT)** assume this proposal will reduce Federal funding due to the lower federal fuel tax rate on gasohol, which reduces MoDOT's total contribution to the Highway Trust Fund. This legislation will result in a loss beginning in October 2004. Therefore, the minimum loss to the Road Fund is \$12,000,000 in FY 2006; \$12,000,000 in FY 2007; \$12,000,000 in FY 2008 and \$12,000,000 in FY 2009.

ASSUMPTION (continued)

The maximum amount is unknown because of the uncertainty of the future national policy regarding mandatory use of gasohol which effects Trust Fund receipts and the next highway act scheduled to take effect in 2004.

Officials of the **Department of Agriculture** stated that the proposal would not affect the Department, administratively. They noted that the future cost to the incentive program to make up for the lack of funding for ethanol grants during the last months of FY 2002 (and any future funding shortfalls). The additional costs would not be incurred until May of 2005 because the first ethanol plant's original sixty month eligibility period runs through April of 2005.

Oversight assumes that there could be additional payments made from the Missouri Qualified Fuel Ethanol Producer Incentive Fund compared to current law beginning in FY 2005. (Oversight notes that Fund appropriations for FY 2001 were \$5,635,741 and expenditures were \$4,524,990. Fund appropriations for FY 2002 were \$4,342,546. Expenditures for FY 2002 are not final. Oversight, given the size of the program, assumes that additional grants compared to current law could exceed \$100,000 in a given fiscal year.)

Continued funding during the extended period would be for the funding not claimed in previous years. Any additional amounts above would be requested through the appropriation process.

Organic Farming

Officials of the **Department of Agriculture** and the **State Treasurer** stated that their agencies would not request additional resources due to this proposal.

Under current law, the legislature is to appropriate moneys from the General Revenue Fund to the Missouri Agricultural Products Marketing Development Fund in fiscal years 2002 through 2006. This proposal would repeal that language. Therefore, the fiscal impact will show a savings to the General Revenue Fund and a loss to the Missouri Agricultural Products Marketing Development Fund beginning in FY 2004.

The Missouri Agricultural Products Marketing Development Fund is to receive income from license fees under current law. This proposal potentially changes the licensing fee structure but does not change the destination of licensing fees collected. Therefore the fiscal impact will not show any gain or loss of licensing fee income to the Fund.

ASSUMPTION (continued)

Farm Equipment

Officials from the **Department of Agriculture** and **Secretary of State** assume the proposed legislation would have no fiscal impact on their agencies.

Wild or Feral Hogs

In similar legislation, officials from the **Office of the State Courts Administrator, Office of Prosecution Services** and **Department of Agriculture** assume this proposal would have no fiscal impact on their respective agencies.

In similar legislation, officials from the **Department of Conservation** assume this proposal does not appear to have fiscal impact upon their agency's funds.

In similar legislation, officials from the **Department of Corrections** (DOC) did not respond to the fiscal note request. However, in response to a similar proposal from the 2001 session (HB 323), officials from the DOC assume the proposed legislation would have \$0/minimal impact on their agency and can be absorbed with existing resources.

In similar legislation, officials from the **Office of State Public Defender** (SPD) did not respond to the fiscal note request. However, in response to a similar proposal from the 2001 session (HB323), SPD officials assume existing staff could provide representation for those one to five cases arising where indigent persons were charged with releasing pigs into the wild. However, passage of more than one similar bill would require the SPD System to request increased appropriations to cover cumulative costs or representing the indigent accused in the additional cases.

In similar legislation, officials from the **Department of Natural Resources** (DNR) did not respond to this fiscal note request. However, in response to a similar proposal from the 2001 session (HB 323), DNR officials assume at this point in time, feral hogs do not present a threat to Missouri's state parks. Therefore, this bill will not cause a fiscal impact to the DNR. If, in the future, feral hogs cause a problem, additional funds may be necessary to eradicate the problem.

In addition, Section 270.400.3 allows any person to take or kill feral hogs on public land with the consent of the landowner. State park rules do not allow hunting in the parks, unless special controlled hunts are necessary to preserve deer populations. Therefore, anyone other than state park personnel will not be allowed to take or kill feral hogs on state park property.

ASSUMPTION (continued)

Missouri Wine Marketing and Research

In similar proposals, officials of the **Department of Revenue**, the **Department of Agriculture**, and the **Department of Public Safety - Division of Liquor Control** indicated that they would not request any additional resources due to this proposal.

Officials of the **Division of Liquor Control** stated that they collected taxes on 8,208,143 gallons of wine in FY 2001. An additional six cents per gallon would have raised \$492,489, assuming that the additional tax would not have influenced sales of wine. They reported that 2,300 tons of grapes were harvested in FY 2001. An additional \$3.00 per ton would have raised \$6,900.

Grain Elevators

Officials from the **Department of Agriculture** (AGR) assume this proposal will not have a fiscal impact to their agency.

Pesticide Project Fund

In similar proposals, officials from the **Office of the State Treasurer**, and **Department of Natural Resources** stated the proposed legislation would not fiscally affect their agencies.

In similar proposals, officials from the **Department of Agriculture (AGR)** stated the proposed legislation will require one Program Coordinator to administer this program, i.e., to account for all money and solicit, review and fund grant proposals. It would require the Program Coordinator to visit all funded projects 2-4 times per year to make sure requirements of grant and/or Memorandum of Understanding are being fulfilled. One clerical person would be needed to handle all clerical work such as typing Memorandum of Understandings, financial accounting, filing and other clerical work. All personal services funding will come from the "Pesticide Project Fund".

Animal Research and Production Facilities

In similar proposals, officials of the **Department of Agriculture and State Public Defender** assume there would be no fiscal impact to their agencies.

Officials of the **Office of Prosecution Services** indicated that prosecutors should be able to absorb the costs of this proposal.

ASSUMPTION (continued)

In similar proposals, officials of the **Department of Corrections (DOC)** indicated the number of new commitments which may result from the creation of the offense(s) outlined in this proposal cannot be predicted. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the **DOC** due to the provisions of this legislation the **DOC** will incur a corresponding increase in operational cost either through

incarceration (FY01 average of \$35.78 per inmate, per day or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender, per day or an annual cost of \$1,219 per offender).

Supervision by the **DOC** through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of the new crimes, it is assumed the impact would be less than \$100,000 per year for the **DOC**.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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GENERAL REVENUE FUND

<u>Transfers</u> - to Missouri Qualified Biodiesel Producer Incentive Fund	\$0	\$0	\$0
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<u>Savings</u> - Transfers to the Missouri Agricultural Products Marketing Development Fund	\$0	\$750,000	\$750,000
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<u>Cost</u> - Department of Corrections	(less than \$100,000)	(less than \$100,000)	(less than \$100,000)
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ESTIMATED NET EFFECT ON GENERAL REVENUE FUND**	<u>(less than \$100,000)</u>	<u>\$650,000 to \$750,000</u>	<u>\$650,000 to \$750,000</u>
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****DOES NOT INCLUDE FUNDING FROM OTHER SOURCES AT A TOTAL OF \$4,500,000 TO BE SUBJECT TO APPROPRIATIONS.**

MISSOURI QUALIFIED BIODIESEL PRODUCER INCENTIVE FUND

<u>Transfers</u> - from General Revenue	\$0	\$0	\$0
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<u>Cost</u> - Production Incentive Grants	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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ESTIMATED NET EFFECT ON MISSOURI QUALIFIED BIODIESEL PRODUCER INCENTIVE FUND**	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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****DOES NOT INCLUDE FUNDING FROM OTHER SOURCES AT A TOTAL OF \$4,500,000 TO BE SUBJECT TO APPROPRIATIONS.**

**MISSOURI AGRICULTURAL
 PRODUCTS MARKETING
 DEVELOPMENT FUND**

<u>Savings</u> - Marketing Development Activities	\$0	\$750,000	\$750,000
<u>Loss</u> - Transfers from General Revenue Fund	\$0	(\$750,000)	(\$750,000)

ESTIMATED NET EFFECT ON MISSOURI AGRICULTURAL PRODUCTS MARKETING DEVELOPMENT FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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**ORGANIC PRODUCTION AND
 CERTIFICATION FEE FUND**

<u>Income</u> - Fees for use of Missouri Organically Grown Trademark	Unknown	Unknown	Unknown
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ESTIMATED NET EFFECT ON ORGANIC PRODUCTION AND CERTIFICATION FEE FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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**MARKETING DEVELOPMENT
 FUND**

<u>Income</u> - Additional Charges on Wine Sales	\$369,367	\$492,489	\$492,489
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ESTIMATED NET EFFECT ON MARKETING DEVELOPMENT FUND	<u>\$369,367</u>	<u>\$492,489</u>	<u>\$492,489</u>
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**MISSOURI WINE MARKETING
 AND RESEARCH DEVELOPMENT
 FUND**

<u>Income</u> - Additional Charges on Grape Production	\$5,750	\$6,900	\$6,900
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**ESTIMATED NET EFFECT ON
 MISSOURI WINE MARKETING
 AND RESEARCH DEVELOPMENT
 FUND**

\$5,750

\$6,900

\$6,900

PESTICIDE PROJECT FUND

Income - Department of Agriculture

Pesticide Registration Fees

\$550,000

\$550,000

\$550,000

Costs - Department of Agriculture

Personal Service Costs (2 FTE)

(\$60,034)

(\$73,842)

(\$75,688)

Fringe Benefits

(\$21,618)

(\$26,591)

(\$27,255)

Equipment and Expense

(\$17,002)

\$0

\$0

Total Costs - Department of Agriculture

(\$98,654)

(\$100,433)

(\$102,942)

**NET ESTIMATED EFFECT ON
 PESTICIDE PROJECT FUND**

\$451,346

\$449,567

\$447,058

FISCAL IMPACT - Local Government

FY 2003
 (10 Mo.)

FY 2004

FY 2005

\$0

\$0

\$0

FISCAL IMPACT - Small Business

This proposal would have direct fiscal impact to small businesses involved in farming, fuel production, and fuel transportation. This legislation could have an economic impact on cotton farmers. Small business which sell (or buy) wine or produce grapes would be affected by this proposal. Small businesses that would register a pesticide would be affected by this proposal.

DESCRIPTION

Ethanol

This proposal would extend the period of time for which a Missouri qualified fuel ethanol producer would be eligible for monthly grants from the Missouri Qualified Fuel Ethanol Producer Incentive Fund from sixty months to up to eighty-four months if the producer had not received the full amount from the fund for which the producer was eligible. Eligibility would end when a producer had received the full amount of grants for which the producer had been eligible.

Biodiesel Program

This proposal would create the "Missouri Qualified Biodiesel Producer Incentive Fund" to promote the production of Biodiesel fuel. The Director of The Missouri Department of Agriculture would administer the fund, which would be used to provide yearly per-gallon production incentive grants to qualified agricultural producer owned biodiesel production facilities. The grants would amount to thirty cents per gallon per year for up to fifteen million gallons of qualified biodiesel fuel produced. A production facility would only be eligible for incentive grants in its first twenty quarters of operation.

Ethanol Labeling

This proposal would exempt ethanol from fuel pump oxygenate labeling requirements.

Forestry

The proposal allows the Missouri Conservation Commission to administer a cost-share incentive program to promote sustainable forestry on eligible private lands. The program may reimburse landowners for up to 50% of the costs of forest management activities that protect water quality and ensure efficient use and continued availability of forest resources, but do not generate an

DESCRIPTION (continued)

immediate profit. Landowners apply for the program on prescribed forms to the state forester. Applications will not be accepted for tracts of land less than 40 acres or for land that has been designated as forest cropland. The total amount of incentives provided to any person shall not exceed \$5,000 per calendar year.

New Generation Processing Entities

This proposal would expand available agricultural tax credits to include "eligible new generation fuel processing entities". This proposal would also allow tax credits from the Agricultural Product Utilization Contributor Tax Credit or the New Generation Cooperative Incentive Tax Credit to be claimed either as a credit against the tax or the estimated quarterly tax. Beginning January 1, 2003, in order to claim the New Generation Cooperative Incentive Tax Credit the member must be domiciled in the state of Missouri or must own land in Missouri which produces a commodity in certain amounts.

Organic Farming

This proposal would allow the Department of Agriculture to cooperate with government and private entities to develop standards and labeling for organic farming, including cost and revenue sharing agreements for programs to develop the standards and labels. It would also create the "Organic Production and Certification Fee Fund", which would receive funds from fees paid for use of trademarks for Missouri organically grown products.

This proposal would eliminate mandatory appropriations from the General Revenue Fund to the Missouri Agricultural Products Marketing Development Fund, and eliminate the current fee structure for use of the AgriMissouri trademark or successor trademarks. The Citizens' Advisory Commission for Marketing Missouri Agricultural Products would establish trademark fee schedules and would establish guidelines and make recommendations to the Director of the Department of Agriculture for the use of funds.

Farm Equipment

This bill repeals the law relating to the repurchase of industrial, maintenance and construction power equipment, and outdoor power equipment used for lawn, garden, golf course, landscaping, or grounds maintenance upon cancellation of contracts. Current law requires wholesalers, manufacturers, or distributors to repurchase the equipment from retailers at 90% of the net cost, with certain exceptions, and includes provisions for remedies to the retailer and

DESCRIPTION (continued)

penalties to the manufacturer, wholesaler, or distributor upon refusal to repurchase equipment. The bill replaces the term "farm implements" in the definition of inventory with the terms

"equipment" and "implements" in the law relating to the repurchase of farm machinery inventory on the termination of a dealership. This law requires wholesalers, manufacturers, or distributors to repurchase equipment, implements, machinery, and attachments at 100% of the net cost and to repurchase repair parts at 95% of the current net price at the termination of a contract, with some exceptions.

Boll Weevil Suppression

Current law allows eligible voters to conduct a referendum on boll weevil suppression or eradication. Upon approval of the referendum, voters are allowed to vote on whether to continue their assessments pursuant to boll weevil suppression or eradication at least once every five years. This bill extends the time period for a vote from at least once every five years to at least once every ten years.

Wild or Feral Hogs

This proposal makes it a class A misdemeanor to knowingly release swine to live in a wild or feral state on public or unfenced private land. Free-roaming hogs not conspicuously identified by ear tags or other forms of identification may be taken or killed without liability on public lands or on private lands with the permission of the landowner, although during the firearms deer and turkey hunting season the regulations of the Missouri Wildlife Code shall apply. No person may make or kill a feral hog with the use of an artificial light, except the landowner or landowner's agent of the property on which the feral hog is found.

Missouri Wine Marketing and Research

This proposal would add an additional three dollar (\$3.00) charge per ton of grapes or one hundred and sixty gallons of grape juice processed by commercial producers.

This proposal would also add an additional six cent per gallon charge for the privilege of selling wine in Missouri. This additional charge would be deposited to the credit of a separate account in the Marketing Development Fund and would be appropriated annually to the Missouri Department of Agriculture's division which is concerned the research and advisement of grapes and grape products. Moneys could be used to employ experts in the fields of viticulture (the study of grapes) and enology (the study of wine and the making of wine).

DESCRIPTION (continued)

Pesticide Project Fund

Currently, anyone who sells or commercially transports pesticides pays an annual \$15

registration fee for each product to the General Revenue Fund. This proposal would increase the annual fee to \$50. The increased fee would take effect in calendar 2003. Revenue would be split between the Pesticide Project and General Revenue Funds (\$15 to General Revenue and the balance to the Pesticide Project Fund). The maximum balance in the Pesticide Project Fund would be \$5 million.

The Pesticide Project Fund would be administered by the Plant Industries Division of the Department of Agriculture. Up to 10% of the fund could be used for administration. Beginning July 1, 2003, up to 90% of the fund may be used for designated projects, including pesticide and agriculture education, applicator training, pesticide and water quality monitoring, container disposal initiatives, integrated pest management, and incentives for value-added production and processing. An advisory committee will evaluate projects and recommend funding. The committee must include at least one member each from the agricultural pesticide industry, the consumer pesticide industry, farm advocacy groups, commodity groups, and the general public.

Allocation of project funds would require an executed memorandum of understanding between the department and the applicant. Before each fiscal year, applicants would submit proposals to the department by March 31. Successful applicants would submit a project report within 30 days after the end of the fiscal year. Project revenue that is not spent or obligated would revert to the fund 60 days after the project is completed. The department could require applicants that do not complete their projects as intended to make partial or full repayments. The department will provide an annual report to the General Assembly.

The bill also allows the department to deny, cancel, suspend, or revoke the registration of a pesticide if the product is found to be harmful to humans or the environment.

Animal Research and Production Facilities

This bill prohibits any person from photographing, videotaping, or otherwise obtaining images from within an animal facility without the written consent of the facility. A person violating this provision of the bill is guilty of a class D felony.

No person is to intentionally or knowingly release in or introduce near an animal facility any pathogen or disease that has the potential to cause disease in any animal at the facility or which threatens human health or biosecurity at the facility. Any person in violation of this DESCRIPTION (continued)

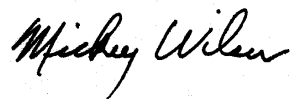
provision of the bill is guilty of a range of penalties depending on the dollar amount of the loss, theft, or damage. Penalties range from a misdemeanor, if the loss, theft, or damage is less than \$300, and progresses to a class B felony for loss, theft, or damage in excess of \$100,000.

The Director of the Department of Agriculture may initiate a civil action in the county in which the violation occurred.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Agriculture
Office of the Attorney General
Department of Economic Development
Department of Natural Resources
Department of Revenue
Secretary of State
Office of State Treasurer
Department of Transportation
Department of Public Safety - Division of Liquor Control
Office of State Courts Administrator
Department of Conservation
Office of Prosecution Services
Department of Corrections



Mickey Wilson, CPA
Acting Director
May 14, 2002